

**THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

WESLEY BUFORD, ADC #658393

PETITIONER

v.

Case No. 4:20-cv-00398-KGB

**DEXTER PAYNE, DIRECTOR OF THE
ARKANSAS DIVISION OF CORRECTION**

RESPONDENT

ORDER

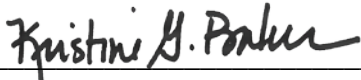
Before the Court are the Proposed Findings and Recommendations submitted by United States Magistrate Judge Joe J. Volpe on July 15, 2020 (Dkt. No. 10). Petitioner Wesley Buford filed objections to the Proposed Findings and Recommendations (Dkt. No. 16), and respondent Director of the Arkansas Division of Correction Dexter Payne responded to those objections (Dkt. No. 17). After careful consideration of the Proposed Findings and Recommendations, Mr. Buford's objections, and a *de novo* review of the record, the Court concludes that the Proposed Findings and Recommendations should be, and hereby are, approved and adopted in their entirety as this Court's findings in all respects (Dkt. No. 10).

In his objections, Mr. Buford reasserts that his procedural default of a portion of his ineffective assistance of counsel claim occurred in his initial Rule 37 proceedings in the Clark County, Arkansas, Circuit Court because he did not present the state court with the same factual grounds and legal theories as he presented to the federal court in his habeas petition. He also objects to Judge Volpe's finding that his remaining claims are not "substantial" under *Martinez v. Ryan*, 566 U.S. 1, 14 (2012). Director Payne respond to these objections, parsing through Mr. Buford's arguments, the record, and Judge Volpe's analysis (Dkt. No. 17). The Court agrees with Judge Volpe's recommendation that Mr. Buford's 28 U.S.C. § 2254 petition for writ of habeas

corpus be dismissed with prejudice. The Court overrules Mr. Buford's objections, as his objections provide no legal or factual basis for this Court to reject or modify Judge Volpe's recommendation.

Accordingly, the Court adopts the Proposed Findings and Recommendations as its findings in all respects (Dkt. No. 10). The Court dismisses without prejudice Mr. Buford's petition for a writ of habeas corpus (Dkt. No. 1). Finally, the Court denies a Certificate of Appealability. 28 U.S.C. § 2253(c)(1)-(2); Rule 11(a), Rules Governing Section 2254 Cases in the United States District Courts.

It is so ordered this 27th day of January, 2021.



Kristine G. Baker
United States District Judge